

WP(C) 4791/2007
BEFORE
HON'BLE MR. JUSTICE B.K. SHARMA

I have heard Mr. I. Uddin, learned counsel for the petitioner as well as Ms. R. Chakraborty, learned State Counsel. I have also heard Ms. N. Hawelia, learned counsel for the respondent No. 2. As agreed to by the learned counsel for the parties, I dispose of the writ petition at the motion stage itself.

This Court while entertaining the writ petition, directed the petitioner to file an additional affidavit explaining the reasons for none appearance before the Tribunal on 20.4.2007 and 7.6.2007 which eventually resulted in ex-parte judgment and order which is under challenge in this writ petition. The impugned judgment and order is dated 28.6.2007 in F.T. Case No. 68/2006 (P.S. Case No. 28/06) which has been passed by the Foreigners Tribunal, Karbi Anglong, Diphu holding the petitioner to be a foreigner having entered in to Assam after 25.3.1971.

The petitioner has filed additional affidavit as was directed by this Court. In the said affidavit, it has been stated that since the petitioner was suffering from severe fever, he could not appear before the Tribunal on the relevant dates. The explanation furnished both in the writ petition as well as in the additional affidavit is accepted after hearing the learned counsel for the parties and on perusal of the materials on record.

In view of the above, the ex-parte order dated 28.6.2007 in F.T. 68/2006 (P.S. Case No. 28/06) passed by the learned Member, Foreigners Tribunal, Karbi Anglong, Diphu is set aside. However, no opinion is expressed on the merit of the case. The petitioner shall appear before the Tribunal and adduce evidence in support of his case.

The petitioner shall appear before the Tribunal on or before 31.10.2007. Thereafter the Tribunal shall proceed with the matter in accordance with law and finalise the same.

Writ petition is disposed of.